

BEFORE THE
Federal Communications Commission

WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

_____)	
In the Matter of)	
)	PR Docket No. 92-235
Replacement of Part 90 by Part 88 to Revise)	
the Private Land Mobile Radio Services and)	
Modify the Policies Governing Them)	
)	
and)	
)	
Examination of Exclusivity and Frequency)	
Assignments Policies of the Private Land Mobile)	
Services)	
_____)	

To: The Commission

**INTERNATIONAL ASSOCIATION OF FIRE CHIEFS, INC.
AND
INTERNATIONAL MUNICIPAL SIGNAL ASSOCIATION
REPLY TO OPPOSITION**

The International Association of Fire Chiefs, Inc. ("IAFC") and the International Municipal Signal Association ("IMSA") (collectively, "IAFC/IMSA"), through their undersigned counsel, hereby respectfully submit this Reply to Opposition To Motion for Stay and Petition for Clarification filed on February 3, 1998, by the Association of Public-Safety Communications

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Officials-International ("APCO") in the above-captioned Refarming proceeding.¹ In support thereof, IMSA/IAFC states the following:

On January 14, 1998, IAFC/IMSA filed a Petition for Clarification requesting that the Commission correct the Public Safety Pool Frequency Table by changing the coordinator symbol for frequencies 453.025/.075/.125/.175 MHz and 458.025/.075/.125/.175 MHz from "PX/PS" and "PS," respectively to "PM." Concurrently, IMSA/IAFC also filed a Motion for Stay requesting that the Commission immediately stay the licensing of any channels on the subject frequencies unless coordinated by the recognized coordinator for the Emergency Medical Radio Service (EMRS).²

These requests are supported by the Commission's Second Report and Order in this proceeding.³ First, the Commission unequivocally stated that "applicants for a frequency in the new Public Safety Pool should be required to obtain coordination from the *current recognized*

¹ IMSA/IAFC request the Commission's indulgence to accept this Reply out-of-time. APCO's Opposition was late-filed, and undersigned counsel has been engaged by travel and multiple briefs due before another agency. As the party initiating this action, this delay will not prejudice any other party.

² Under both the Clarification and Stay actions requested by IAFC/IMSA, potential to access the EMRS channels by non-EMRS public safety licensees would be handled through inter-service coordination procedures applicable to other specified use public safety channels.

³ *In the matter of Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them and Examination of Exclusivity and Frequency Assignments of the Private Land Mobile Services*; Second Report and Order, FCC 97-61, PR Docket No. 92-235, released March 12, 1997 (hereinafter "Second Report and Order").

frequency coordinator for the specified frequencies."⁴ In support of its decision to retain the current frequency coordinators for the specified frequencies, the Commission cited APCO's *Position Paper on Radio Service Consolidation*, in which it "recommended that the current method of frequency coordination, where each coordinator is responsible for specific frequencies, be retained."⁵ It is inconceivable how APCO could now oppose IMSA/IAFC's efforts to correct the Public Frequency Pool Table to reflect the very coordination policy that APCO encouraged the Commission to adopt. One can only gather that APCO's Opposition is merely an opportunistic endeavor designed to take advantage of a Commission oversight in compiling the new Public Safety Pool Frequency Table.

Second, and fundamentally more important, grant of IAFC/IMSA's requests will ensure that the Commission achieves its goal of maintaining the integrity of the nation's emergency medical communications system operating on the subject frequencies. In its Second Report and Order, the Commission stated that "the integrity of the public services must be maintained without fail."⁶ The Commission provided the following rationale and illustrative scenario in support of this pronouncement:

Each Public Safety frequency coordinator must be knowledgeable about the specific plans that have been established in the radio service in which they coordinate. They are not necessarily proficient in the intricacies of the plans established in the other Public Safety Radio Services. Therefore, under our

⁴ Id. at ¶ 37 (emphasis added).

⁵ Id. at ¶ 35. (Citing APCO Position Paper on Radio Service Consolidation at 5).

⁶ Id. at ¶ 39.

approach toward consolidation, a fire company will be unable to access a police channel without first coordinating through APCO, the certified frequency coordinator for the Police Radio Service. This ensures that the fire company will not unwittingly jeopardize police safety by accessing a channel that has been allocated for specific police uses under a regional plan.⁷

Not at all unlike the example provided above, IMSA/IAFC simply want to ensure that non-emergency medical service entities do not unwittingly jeopardize *emergency medical communications* by accessing a channel that has been allocated for specific *emergency medical radio service* uses. Once again, we find it inconceivable that APCO would file a pleading opposing this objective. In the Second Report and Order, APCO is cited as stating that “individual public safety coordinators in the existing bands below 470 MHz provide the best method for managing frequency assignments to ensure that the vital needs of each public safety organization are satisfied.”⁸ In its Opposition, APCO provides no reason for its apparent departure from this policy. Without providing any reason for changing its position on this issue, APCO's Opposition can be perceived as a transparent attempt to take advantage of a mistake in the Public Safety Pool Frequency Table -- to the possible detriment of the nation's emergency medical communications systems.

APCO's few attempts to justify retention of the erroneous Public Safety Pool Frequency Table lack substance. First, APCO argues that the certified coordinator designation for these frequencies is correct because IMSA/IAFC “fails to note that all other 450 MHz frequencies were

⁷ Id. at footnote 96.

⁸ Id. at ¶ 35 (citing APCO Position Paper on Radio Service Consolidation at 1, 3).

made available for coordination by any public safety coordinator . . .”⁹ Not only is this incorrect, it has absolutely no bearing on whether the frequency coordinator *for the subject frequencies* has been erroneously designated.¹⁰ Second, APCO argues that the coordinator designation is correct because the Commission imposed a limitation on the exclusivity of the use of these frequencies by allowing the operation of highway radio call boxes licensed prior to March 31, 1980.¹¹ This limitation has existed since the inception of the EMRS in 1993 and was “grandfathered” in the EMRS rulemaking, and is not determinative of whether the current Public Safety Pool Frequency Table is correct with regard to the designated frequency coordinator for the subject frequencies.

Lastly, APCO poses the question why “the Commission [would] consolidate the specific radio services into a single Public Safety Pool,”¹² if it wanted to preserve the specified use of each particular frequency. According to the Commission, its “primary goal in [the] proceeding has been to increase spectrum efficiency in the PLMR bands below 800 MHz.”¹³ However, the Commission’s consolidation plan has been ultimately dictated by the need to “achieve the

⁹ APCO Opposition at 2.

¹⁰ The coordinators for the following 450 MHz frequencies are designated by either a “PM” (Emergency Medical Coordinator) or a “PS” (Special Emergency Coordinator), rather than “PX” (Any Public Safety Coordinator, except the Special Emergency Coordinator): 453.03125/.04375/.08125/.09375/.13125/.14375/.18125/.19375 MHz and 458.0125/.03125/.04375/.08125/.09375/.13125/.14375/.18125/.19375 MHz.

¹¹ APCO Opposition at 2.

¹² APCO Opposition at 3.

¹³ Second Report and Order at ¶ 15.

benefits of consolidation without compromising [the] safety of the general public.”¹⁴ As such, the Commission decided to consolidate the Public Safety Pool services, and determined that the “critical communications capabilities [of the services] can be protected by the coordinator who is intimately familiar with the use of these frequencies while still allowing the channel to be used by other entities in other parts of the country.”¹⁵

While the Commission has consolidated the Public Safety Pool services, thereby allowing more flexible use of the frequencies, it has not abandoned the objective of maintaining the integrity of each respective Public Safety service. To the contrary, the Commission has retained the coordination functions of the individual certified coordinators to ensure that these vital public safety frequencies are coordinated in accordance with the most appropriate use of each respective frequency.

WHEREFORE, THE PREMISES CONSIDERED, the International Association of Fire Chiefs, Inc. and the International Municipal Signal Association respectfully urge the Federal Communications Commission to (1) immediately STAY the licensing of any channels on the 453.025/.075/.125/.175 MHz and 458.025/.075/.125/.175 MHz frequencies unless coordinated by the recognized coordinator for the Emergency Medical Radio Service and (2) correct the Public Safety Pool Frequency Table by changing the coordinator symbol for frequencies 453.025/.075/.125/.175 MHz and 458.025/.075/.125/.175 MHz from “PX/PS” and “PS,”

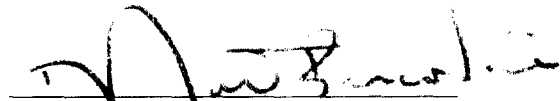
¹⁴ Id.

¹⁵ Id. at ¶ 17.

respectively, to "PM."

Respectfully submitted,

**INTERNATIONAL MUNICIPAL SIGNAL ASSOCIATION
AND
INTERNATIONAL ASSOCIATION OF FIRE CHIEFS, INC.**



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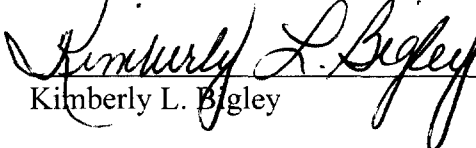
CERTIFICATE OF SERVICE

I, Kimberly L. Bigley, a secretary at the law offices of Keller and Heckman LLP, hereby certify that on February 25, 1998, a copy of the foregoing Reply to Opposition was served by first-class mail, postage prepaid, upon:

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